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OFFICE OF PETITIONS

Response to Patent Office Action Summary for Application No. 09/610,128 from Bruce Kerievsky

I am not a patent attorney. So I may not be aware of various subtleties involved in deciding patentability. I have been advised by my previously retained and very experienced patent attorney that my invention is patentable and that the claim of obviousness is not valid.

My opinion that the Interactive Talking Electronic Cookbook is patentable is based primarily on the fact that its collection of features and capabilities differ markedly from all the prior art cited by the examiner. Each of the previous patents cited addresses only a couple of the characteristics of my invention. None offer or even suggest vocal interactivity, which is the essence of the Talking Cookbook. As the chart on the following page indicates, none of the supposedly prior art, even when combined, comes close to being a product that could talk a cook through the preparation of a meal. None even suggest working with multiple recipes at a time. The Brother International device that was mentioned is an electronic cookbook, albeit not a talking one.

It is the vocal interactivity that distinguishes my application, and I believe that it is a far from obvious conjunction of text-to-speech and voice recognition technologies precisely to help the home cook prepare meals that makes this invention unprecedented. Every invention is based on prior observation and art. Einstein interpreted well-documented phenomena in unexpected and possibility producing ways. It is how existing technology is combined and the new capabilities that are enabled by its creator's vision that make an invention both not obvious and unique. Finally, it is the preponderance of features explicitly present to talk the cook through meal preparation, and never present or suggested by any other prior patent, that makes this application worthy of a patent.

I am available to discuss this application at: 516-466-2872.

Sincerely yours,

Bruce S. Kerievsky

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The Patent Office has been unable to appreciate the novelty of the patent application. For the first time, it introduces a method of providing detailed instructions to a home cook such that cooking can proceed as an audible dialogue between the cook issuing and requesting voice responses from the interactive, talking, electronic cookbook about the next ingredient or the next step in assembling the recipes being worked on. This saves the cook time in walking to a cookbook, finding his or her place in the current recipe, flipping back and forth between recipes if multiple dishes are being prepared, reading and remembering the details of what comes next, and moving back to the place where the next step is being executed. The cook wears a wireless microphone and the cookbook has both a port to receive that input and speakers to issue instructions that together enable two-way vocal communication. None of the cited patents address these innovative capabilities.

To facilitate a clearer understanding of the significance of conjoining existing technologies with a fully elaborated recipe data structure (a veritable template for future cookbook creators to conform to) to create a previously unavailable level of control for the home cook, we have prepared the following comparison chart showing the capabilities of the various referenced patents.

Comparison of Patent Characteristics

Patent Characteristics	DelGiorno restaurant menu	Carmean Microwave Oven cooking	Neuhaus Recipe Encyclopedia	Kolowa Electronic Maid	Kerievsky Interactive Talking Cookbook
Detailed Cooking Instructions	No	Limited by Device	Yes	Yes	Unlimited
User Developed Text-to-speech	No	No	No	No	Yes
Cook's Voice Recognition controlling cookbook's response	No	No	No	remotely for non-cooking instructions	Yes
Cook's ability to edit/update recipes	Minimal	No	No	Unspecified	Yes
Scaling Ingredients by portions needed	No	Single Ingredient	No	No	Yes
Interactive by Ingredient and cooking step	No	No	some; non-vocal control	No	Yes
Cooking multiple recipes at one time	No	No	No	No	Yes

Finally, please note the accompanying photocopy of an article in the NY Times dated 12/11/03 that clearly states that there is no product on the market that helps the home cook prepare a recipe by talking to her or him.

TOMORROW IN **The Times**

Thursday, December 11, 2003

CIRCUITS

The Computer in the Kitchen

Always-on Internet connections and wireless networking are increasingly making computers a fixture in the kitchen. But, as Katie Hafner finds, little of their use there has to do with cooking.

If the Kitchen's Warm, It May Be the PC

E-mail and Web searches join cooking and snacking as computers migrate to the heart of the home.

By KATIE HAFNER

WHEN Lyman and Suzanne Chapin built their house in Hopkinton, Mass., in 1987, the networking they had in mind was of the human variety. They kept the layout of the kitchen area open to create an atmosphere that would foster frequent interaction among the four family members.

"The idea was to encourage people to engage in whatever activities they were involved in in a common space rather than in isolated spaces," said Mr. Chapin, a partner at the Internet technical consulting group in Boston.

Sixteen years and several generations of technology later, not only has the house's open layout fulfilled the Chapins' goals for communal activities, but the kitchen and its immediate surroundings have also become the hub of an unanticipated activity: the family's computer pursuits.

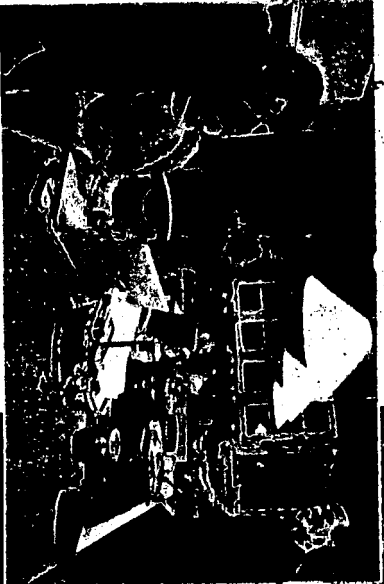
Long recognized as a primary gathering place in the home, the kitchen these days is seldom a room unto itself. More and more people prefer a cooking area that opens to a great room or a living room. This is helping turn kitchens into a magnet for PCs.

Even if Internet-ready refrigerators have yet to become much of a presence, technology is making its presence felt as families increasingly descend on the kitchen not just for a meal but also for a session on the computer. Some bring their wireless laptops with them; others sit down at a desktop PC situated somewhere between the mixer and the microwave.

"We've known for a long time that the kitchen is where the family interacts," said Jeffrey Cole, director of the Center for Communication Policy at the University of California, Los Angeles, which is conducting a long-term study of the effects of the Internet on 2,000 individuals.

The kitchen is the room in the house people inhabit the most when they're awake," he said. "It's where people look at their mail, where the answering machine is, it's the room people go to during TV commercials. And it makes sense you'd see the PC on the Internet move into the kitchen."

The main reason for the migration of PCs into the kitchen, Dr. Cole said, is the proliferation of high-speed Internet connections. "It's the always-on function of broadband connections. If we didn't have broadband and it was all dial-up, PCs wouldn't have moved into the kitchen. It's all about being able to do things very fast and not have to wait."



Joel Hinton for The New York Times



TOGETHER The kitchen computer in the Paul family's home in Wayland, Mass. Right is the most-used of their six PCs. In Hopkinton, Mass., the Chapin family

occasionally use an Internet cafe, but a study hall with several laptops connected wirelessly to the Internet.

If the Kitchen's Warm, It May Be the PC

Continued From First Circuits Page

kitchen. He said that among those who have had broadband for more than two years, the PC tended to migrate out of the den or the bedroom into the kitchen. Furthermore, wireless home networks allow for more portability. Laptops equipped with Wi-Fi connections can go anywhere within range of a base station, and often they end up in the kitchen.

Kitchen designers are now often asked to pencil in a spot for clients' computers. "Quite a few of our kitchens desk areas have a computer with them," said Peg Seropian, an interior designer in Norwood, Mass. Clients want to have Internet access in the kitchen area because that's a place where everybody meets and greets."

Indeed, the Chapins' kitchen area occasionally resembles a study hall, with several laptops connected wirelessly to the Internet at any given time. They might be humming away at the butcher-block island in the middle of the kitchen, on the large farm table adjacent to the kitchen, and on Suzanne Chapin's favorite spot to settle, the nearby couch.

The effect of having so many wireless laptops in one spot, although unanticipated, is welcome, Mr. Chapin said.

"When everyone is gathered together, there's a very different mind-set about how you think about what you're doing on the computer," he said. "It's different than if you were, say, a 12-year-old kid going off in a separate place of his own and closing the door. It tends to be a completely family-oriented activity."

"It's not that it's less likely that a kid is going to go to a Web site that sells term papers and try to cheat on his homework," Mr. Chapin said. "It's much more that the activity is bounded by the fact that 15 minutes into it, there's going to be an interaction with some other member of the family that might not even have anything to do with computers. It might be as simple as someone asking, 'I'm about to make a pot of tea. Would you like a cup?'"

Of the six computers in Ken and Lois Paul's home in Wayland, Mass., the one in the kitchen gets the most use.

"It's the focal point of all nonprofessional stuff," said Mr. Paul, a computer consultant. Indeed, he said, "the computer is located physically in the center of gravity of the house." When he brings in the day's mail, he pulls out the bills and goes straight to the computer to pay them. He may visit an Atkins diet Web site, or send e-mail to the caregiver who is looking after his grandfather in California.

His wife, who once connected to her office from a computer in the adjoining library,



1 (TOP) COURTESY/THE NEW YORK TIMES

MULTIPURPOSE Using a Salton Icebox device mounted under a kitchen cabinet, Lisa Spagnola of Springfield, N.J., and her son, Robert, have access to a broadband Internet connection, television, movies on DVD and music on CD's.

now relies on a laptop with a wireless network card. "Now she rarely uses the library, and just sets up her laptop on the kitchen counter," he said.

The Pauls and their three children, who range from 10 to 16, are inclined to cluster around the kitchen PC as well. "We go there to find out who was right about a trivia question," Mr. Paul said, "or to go look at something we're thinking of buying online."

Tyler Paul, 14, has grown accustomed to the kitchen computer as a fixture in his life. When the computer arrived three years ago, he used it to play video games. Now he uses it mainly to search the Web, often while watching television. "A lot of times we just sit around and eat and watch TV and can be on the computer, too, checking stuff," he said.

Susan Rosenberg and Kean Van Cleve,

who live in Lafayette, Calif., with their 14-year-old daughter, Simone, even sacrificed some eating space to accommodate a computer. Their Apple desktop, which is connected to the Internet by a cable modem, occupies a table in an area that might otherwise serve as a breakfast nook.

Ms. Rosenberg and Mr. Van Cleve are pleased with the trade-off. With the computer close by, Simone's frequent computer use is easy to monitor. "Having it in a public place makes us feel a little bit more secure about what she's doing on the Internet," said Mr. Van Cleve, a manager at Bank of America.

Ms. Rosenberg, who is studying to become a teacher, also works on the kitchen computer. And the family occasionally gathers around it when planning a family trip.

John Carey, director of Greystone Communications, a research firm in Dobbs Ferry, N.Y., compared the computer's intrusions in the kitchen with that of the television.

"If we had a conversation in 1960 and you asked, 'Would anyone ever put a television in the kitchen?' I'd have said, 'No way. Things will get spilled on it. It would just get in the way, and I can't watch it because I'm going to be cooking, so what's the point?'"

"Now a lot of people use it not to watch TV but listen to it when they're doing other things," Mr. Carey said. "I think the Web may take a very similar path."

Mr. Carey pointed out that the PC has succeeded where Internet-ready appliances have failed. Such devices have not only been too expensive, but too limited in function. "The Web is about information, communica-

tion, shopping and entertainment," Mr. Carey said. "Most people use it for all of those services, and a very high percentage use it for at least three of the four. So a limited appliance that provides, say, only e-mail is not attractive."

Mr. Paul said that one important consideration is the computer's size. When designing the kitchen, he said, he wanted to maintain the presence of technology. To that end, the family decided on a PC with a 15-inch flat-panel display. "It's absolutely unobtrusive," he said. "Also, it's very easy to move around if more than one person needs to look at it."

The next logical step is technology that can be removed entirely, like a laptop.

"I carry a laptop everywhere around the house," said Mark Liebman, a software entrepreneur in Berkeley, Calif. "We use the Internet to find supporting material for questions that come up in family conversation during the preparation time before dinner — What dinosaurs had feathers? What do the people in country X and Y eat? — and topical things that come up."

The family often congregates around Mr. Liebman's laptop in the kitchen. "It makes things very easy to look up on the Internet whenever we have a question," he said. "In between questions kids have about their homework, I do a bit of shopping, research, and catch up with e-mails."

Mr. Chapin said that wireless computing had one less desirable consequence. When the only Internet connection available was a hookup in the kitchen, there were comforting limits on their daughters' options for Internet access.

"Now with wireless laptops, we've had to be more explicit about expectations," he said. "It's understood and reinforced that for the most part, computer usage happens in a public environment."

Right next to the microwave, a digital feast of information, communication, shopping and entertainment.

book containing the recipe for b's s'alla, (a Moroccan chicken dish), she was reminded of the many chicken dishes had prepared it. "I'll

could taste.

Look It Up

Don't Like That Cookie Recipe? Give a Few Thousand Others a Try

GORDON MOORE, a founder and chairman of the chip maker Intel, has long been associated with Moore's law, which forecast the steady growth of computing power. But he was less farsighted when contemplating the potential of a computer in the home.

When he asked an engineer in the 1970's what use there might be for such an object, the only example offered, he said, was for a housewife to store recipes. "It seemed ridiculous," Dr. Moore wrote years later.

While the home PC has filled a multitude of functions, recipes scarcely yielded the killer app. For most cooks, printed cookbooks, called with good, have remained the preferred means of finding and following recipes.

But not for all. Mark Stech-Novak, a kitchen designer and former restaurateur in Oakland, Calif., called recipes "the most salient issue in a kitchen." The presence of a PC there, he said, makes it logical for recipes to be stored and summoned electronically.

"You now can get some pretty serious software loaded with pretty good recipes these days," he said.

Moreover, the Web is positively engorged with recipes. A search at google.com for "chocolate chip cookie recipe," for instance, yielded nearly 100,000 results. Web sites tied to television cooking shows, magazines and food manufacturers abound, as do less formal repositories. Recipes are posted by the millions on blogs

and diet discussions.

Still, the psychological ties that bind cook to cookbook can be strong.

Cookbooks covered with traces of food and handwritten notes are a palimpsest, a testament to recipes used over and over and refined through the years. Opening your mother's old copy of "Joy of Cooking" to the meatloaf recipe she annotated in 1980 can be a source of comfort, even a crucial part of the cooking experience.

"There's still something very emotional about looking through a magazine or cookbook," said Ruth Reichl, editor of Gourmet magazine.

Ms. Reichl, who pointed out that cookbooks are selling better than ever, said that each time she opened her copy of a cook-

book containing the recipe for b stiffs (Moroccan chicken stew), she was reminded of the many times she had prepared it. "I'll see notes from the first time I made it, and the second time I made it, and a letter from my friend Mohammad, who makes it differently," she said.

Ellen Cheever, a kitchen designer in Wilmington, Del., has a system that requires paper. "I mark my favorite recipes with sticky notes and I fold down the pages," she said. "It's much harder to retrieve recipes in a computer."

But Mark Liebman, a software entrepreneur in Berkeley, Calif., whose laptop is often in the kitchen whenever he is, has a different view. When he needs a recipe, Mr. Liebman turns to his computer.

"I don't stress about keeping the recipe for warm chocolate cake around," he said. "There are many variations on the Internet. I just need my framemix, my ingredients, and a hot oven."

Katie Hojfer

Hold It, and Drop That Camera

Continued From First Circuits Page

trict in suburban Chicago enacted a ban in November that covered the possession of any cellphone — not just camera phones — in park-owned restrooms, locker rooms and showers.

"There is no reason to have a cellphone while you're changing and showering," said Ron Nunes, one of the park district's commissioners. "I'd rather protect the children and the public more than someone who wants to call home and see what's for dinner." Fresh in the town's memory was a 2001 incident in which a man used a fiber-optic camera to secretly take pictures of children in a park shower.

So far, there have been no complaints in Elk Grove about cellphone transgressions. But Mr. Nunes concedes, "It's darn near impossible to enforce." There will be no searches of bags, he said, and park officials will not summon the police if a cellphone is found in a restricted area.

"We're not going to arrest someone for making a phone call in a locker room," he said. "We're counting on people to just say, 'Shut it off.'"

Though they are permitted in gym areas, patrons say they often leave their phones in the car when they work out there because they usually have to use the changing room first, where the phones are not permitted.

could invite lawsuits from people who might have to use a phone in an emergency and be unable to summon help, he said.

"What they've done is go to the extreme," he said. "They've threatened the rights of the majority of people to try to control the conduct of a few, and that's just beyond the balance." He added that the only way to deter people from taking photos of others was to punish them for taking surreptitious pictures rather than banning the phones.

Des Peres, Mo., a St. Louis suburb, passed a more limited and specific law in September that bans taking photos of a person who is partly unclothed without consent in an area where they should expect privacy.

"The ordinance would provide the city with some teeth for the ability to prosecute someone," said Jason McConachie, the assistant city administrator, adding, "I don't believe there is any way to proactively enforce it, like putting police officers in locker rooms." He said the city would help an aggrieved citizen pursue legal action against someone for taking pictures in a restricted

Even photogenic types want

some privacy when emerging

from a shower stall at the gym.

area without consent — an occurrence as yet unreported.

Chris J. Hoodnagle, legislative counsel for the Electronic Privacy Information Center, a nonprofit group in Washington, acknowledged that the proliferation of camera phones had helped give new life to "up skirt" or "down blouse" photography.

"Clearly, this is going to get worse," Mr. Hoodnagle said. "There is a remarkable lack of sensitivity to the subjects of the photographs." But he said changing the norms of society, rather than its laws, was likely to be a more effective response.

Barry Steinhardt, director of the year-old technology and liberty program for the A.C.L.U., suggested that the camera-phone quandary reflected a larger problem: that technology has developed at the speed of light and American law is "stuck in the Stone Ages."

"The rest of the developed world have fairly advanced laws that incorporate privacy and fair information that we invented in the 1960's but didn't implement," he said.

While he would not comment on specific measures in Chicago and elsewhere, he said that privacy laws were justifiable but had to be very specific. What the United States needs, he added, is to establish a privacy commissioner to enforce existing rules and investigate the need for new ones.



Mr. Spagnoli, who runs a catering business, Before he bought the Icebox, his only Internet access point was a computer in the basement. Now, he said, he can tune into ESPN on the television or use the Internet function to visit his business's Web site. His wife, Lisa, uses it to watch cooking shows on the Food Network, then goes to Web sites for recipes. The Spagnolis' 2-year-old son, Robert, can watch "Sesame Street" and a camera attached to the device monitors Robert when he is in his room.

By the time Robert is old enough to do his homework on the kitchen computer, the kitchen's role will no doubt have expanded even more, and the Icebox and similar devices will have taken on still more functions. Brew a pot of coffee? Grill a sandwich? All while sending out invitations to a dinner party — to take place, of course, in the kitchen.

"It's the best thing I've ever gotten," said Mr. Spagnoli, who runs a catering business. Before he bought the Icebox, his only Internet access point was a computer in the basement. Now, he said, he can tune into ESPN on the television or use the Internet function to visit his business's Web site. His wife, Lisa, uses it to watch cooking shows on the Food Network, then goes to Web sites for recipes. The Spagnolis' 2-year-old son, Robert, can watch "Sesame Street" and a camera attached to the device monitors Robert when he is in his room.

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Paper No.

**BRUCE KERIEVSKY
7 ARRANDALE AVENUE
GREAT NECK, NY 11024**

COPY MAILED

DEC 13 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kerievsky, Bruce
Application No. 09/610,128
Filed: July 5, 2000
For: Interactive Talking Electronic Cookbook

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed January 7, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 8, 2003. A Notice of Abandonment was mailed August 13, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply;
- (2) the petition fee;
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

BEST

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The instant petition does not lack any of the above items. However, in accordance with 37 CFR § 1.52, all papers, other than drawings, that are to become a part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination proceeding must be on sheets of paper that are the same size, and:

- (i) Flexible, strong, smooth, non-shiny, durable, and white;
- (ii) Either 21.0 cm by 29.7 cm (DIN size A4) or 21.6 cm by 27.9 cm (8 1/2 by 11 inches), with each sheet including a top margin of at least 2.0 cm (3/4 inch), a left side margin of at least 2.5 cm (1 inch), a right side margin of at least 2.0 cm (3/4 inch), and a bottom margin of at least 2.0 cm (3/4 inch);
- (iii) Written on only one side in portrait orientation;
- (iv) Plainly and legibly written either by a typewriter or machine printer in permanent dark ink or its equivalent; and
- (v) Presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes and electronic capture by use of digital imaging and optical character recognition.

The response filed with the instant petition on December 3, 2003, does not satisfy the third requirement. Petitioner must submit the response in the appropriate orientation in order to revive the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:


By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on (date).

(Typed or printed name of the person signing this certificate)

(signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)____-____ on (date).

(Typed or printed name of the person signing this certificate)

(signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.

For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.

In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.